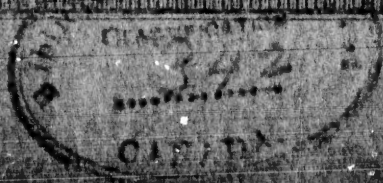


THE CONSTITUTION

AND

GOVERNMENT OF CANADA

FROM AN OFFICIAL DOCUMENT





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THE CONSTITUTION

AND

GOVERNMENT OF CANADA



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GOVERNMENT OF CANADA

FROM AN OFFICIAL DOCUMENT

DECEMBER 1893

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NOTE BY THE PUBLISHER

“The Blue Books are a dust-bin in which pearls are sometimes found”, said a journalist, who had been a member of Parliament and who was not too fond of his first occupation.

We have found such a pearl in the *Appendixes to the Journals of the House of Commons*, 1890. It is a *Report on the Constitution of the Dominion of Canada prepared for presentation to the Imperial Parliament by the Honourable Joseph Adolphe Chapleau, Q.C., LL.D., Secretary of State of Canada*, as we read on the title page of a pamphlet printed by the Queen's Printer, in Ottawa, in 1891.

A distinguished professor, to whom we showed that report, said: “It is the most

“ complete, the most concise and the clear-
“ est summary which I have ever read of
“ the Constitution and Government of
“ Canada. The State should have had
“ thousands of copies of it printed and dis-
“ tributed in all the schools. It is the poli-
“ tical primer which every one should
“ study.”

This opinion seemed to us to be very correct, and we are surprised that no one has thought, before now, of publishing this work, as its utility is beyond a doubt.

We have sought to supply the deficiency by reprinting the report in its entirety.

We claim no other merit for our work than that of having fulfilled a duty which, in our opinion, devolved upon the Government.

There is nothing new in the work.

It consists only of a few historical notes, with a synopsis of the Confederation Act and of some Statutes respecting the administrative organization of the Country, together with some Parliamentary rules.

Still, it contains much information which,

on reading, one is astonished not to have known. Frequently they are things of the most ordinary nature which one forgets to learn. Every one is supposed to know them, but few take the trouble to study them thoroughly, until some unexpected incident convinces us of our ignorance.

We have altered scarcely anything in the text of the Report of the late Secretary of State, who, we are pleased to believe, will not be offended at our popularizing his work.

If we are rightly informed, this Report was highly praised by members of the British Parliament, before which it was laid by the Minister for the Colonies in the form of a *Return to an Address from the House of Commons*.

We have corrected some errors in the printing of the document and we have made some slight changes rendered necessary by legislation subsequent to the Report.

If, in some instances, we have altered the phraseology of the original, it was merely to facilitate the reading, by dividing into

paragraphs more easy for the reader's memory to retain.

We consider that we are doing a useful work for the education of youth by publishing this short summary, which should find a place in the library, if not in the memory, of all who have anything to do with politics.

Without further preface, we submit the work, which the reader will appreciate when he has perused it.

ÉDOUARD DELPIT.



CONSTITUTION
AND
GOVERNMENT OF CANADA

CHAPTER I

HISTORY

Canada is said to have been discovered in 1497 by Jean and Sébastien Cabot, under commission from King Henry VII. of England.

In 1524, the coast from Carolina to Nova Scotia, and all the region lying beyond, was claimed by Jean Verazzani as possessions of Francis I. of France, under the name of "New France", a name which was afterwards applied to most of the territory

claimed to belong to that nation in the New World.

Ten years later, Jacques Cartier, of Saint-Malo, explored the Saint-Lawrence, and, in the following year, took possession of certain territory in Canada, or New France, under authority from the French King.

Nova Scotia was first colonized by the French in 1598.

Canada proper remained under the sovereignty of France up to 1760. The second battle of the Plains of Abraham was fought at the end of April, 1760, and, on the 8th of September, was signed the Montreal Capitulation, after which the French authorities left the Country. Canada was formally ceded to Great Britain under the Treaty of Paris, in 1763.



As early as 1758, representative institutions were granted to Nova Scotia.

Nova Scotia then embraced New Bruns-

wick also. In 1784, the latter was erected into a separate colony, with a representative Assembly. Cape Breton, which was then made part of New Brunswick, was again detached therefrom and united to Nova Scotia in 1819.

In 1763, Prince Edward Island was annexed to Nova Scotia, but was constituted a separate colony in 1770, with a Legislature which was summoned for the first time in 1773.

In 1791, Canada proper (*i. e.* the present Provinces of Quebec and Ontario) was divided into two Provinces with representative institutions.

These Provinces, then known as Upper and Lower Canada, remained with separate Legislatures until 1841, when they were united in a Legislative Union, under the name of Canada.

In that year also, Responsible Government was conceded to Canada, which was the first British dependency wherein this important measure of Colonial administrative reform was introduced ; but the prin-

ciple was not definitively established until 1847.

In the following year, 1842, Responsible Government was introduced in Nova Scotia and also in New Brunswick. It was not, however, established in Prince Edward Island until 1851.

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The several British American colonies remained in this position until the 1st July, 1867, when, under the *British North America Act* of that year (30 Vict., chap. 111, *Imperial Statutes*), popularly known as the Act of Confederation, the Provinces of Canada (*i. e.* Quebec and Ontario), Nova Scotia, and New Brunswick were federally united as a Dominion, under the name of Canada.

Since then, the Provinces of Manitoba, British Columbia, and Prince Edward Island, with the unorganized Territories of the North West, have been incorporated in the Union, leaving, at the present time, but one

Colony of the British North American group (Newfoundland) to be admitted therein, to complete the great design of Canadian Confederation.

The total estimated area of the Dominion is 3,315,647 square miles ; the total estimated population, about five millions. The census of 1891, which is perhaps open to criticism, gives a total population of 4,833,239.





CHAPTER II

CONSTITUTION

The system of Government established in Canada under the Act above cited, and which system was unknown in Great Britain or her Colonies until so introduced and applied, is a Federal Union.

This Federal Union has a General or Central Government, controlling all matters essential to the general development, the permanency, and the unity of the whole Dominion.

It has also a number of Local or Provincial Governments, having the control and management of certain matters naturally and conveniently falling within their defined jurisdiction.

Each Government is administered in

accordance with the British system of Parliamentary Institutions.

By this Act, the Imperial Parliament practically gave to the Dominion Parliament the largest possible rights which can be exercised by a Colonial dependency of legislating on all matters of importance to the Union generally. The position Canada consequently occupies is that of a semi-independent power.

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The powers vested in the Parliament of Canada are set forth in the 91st section of the Confederation Act, which provides that the Queen, with the advice and consent of the Senate and House of Commons, may
“ make laws for the peace, order, and good
“ government of Canada, in relation to all
“ matters not coming within the classes of
“ subjects by this Act assigned exclusively
“ to the Legislatures of the Provinces”;
and, for greater certainty, it is declared that
“ the exclusive legislative authority of the

“ Parliament of Canada extends to all matters coming within the classes of subjects “ next hereinafter enumerated”, that is to say :

1°. The public debt and property.

2°. The regulation of trade and commerce.

3°. The raising of money by any mode or system of taxation.

4°. The borrowing of money on the public credit.

5°. Postal service.

6°. Census and statistics.

7°. Militia — military and naval service — and defence.

8°. The fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada.

9°. Beacons, buoys, light-houses, and Sable Island.

10°. Navigation and shipping.

11°. Quarantine and the establishment and maintenance of Marine Hospitals.

12°. Sea-coast and inland fisheries.

13°. Ferries between a Province and any

British or foreign Country or between two Provinces.

14°. Currency and coinage.

15°. Banking, incorporation of Banks, and the issue of paper money.

16°. Savings Banks.

17°. Weights and measures.

18°. Bills of exchange and promissory notes.

19°. Interest.

20°. Legal tender.

21°. Bankruptcy and insolvency.

22°. Patents of invention and discovery.

23°. Copyrights.

24°. Indians and lands reserved for the Indians.

25°. Naturalization and aliens.

26°. Marriage and divorce.

27°. The Criminal law, except the constitution of the Courts of criminal jurisdiction, but including the procedure in criminal matters.

28°. The establishment, maintenance, and management of Penitentiaries.

29°. Such classes of subjects as are ex-

pressly excepted in the enumeration of the classes of subjects assigned exclusively to the Legislatures of the Provinces.

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* *

By the 92nd section, the Act defines the powers of the Local Legislatures, which in each Province may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say :

1°. The amendment, from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the office of Lieutenant Governor.

2°. Direct taxation within the Province, in order to the raising of a revenue for Provincial purposes.

3°. The borrowing of money on the sole credit of the Province.

4°. The establishment and tenure of Provincial offices; and the appointment and payment of Provincial officers.

5°. The management and sale of the public lands belonging to the Province and of the timber and wood thereon.

6°. The establishment, maintenance, and management of public and reformatory Prisons, in and for the Province.

7°. The establishment, maintenance, and management of hospitals, asylums, Charities and eleemosynary institutions in and for the Province, other than Marine Hospitals.

8°. Municipal institutions in the Province.

9°. Shop, saloon, tavern, auctioneer, and other licenses, in order to the raising of a revenue for Provincial, local, or municipal purposes.

10°. Local works and undertakings other than such as are of the following classes :
(a) lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province ;
(b) lines of steamships between the Province and any British or foreign Country ;
(c) such works as, although wholly situate

within the Province, are, before or after their execution, declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the Provinces.

11°. The incorporation of Companies with Provincial objects.

12°. The solemnization of marriage in the Province.

13°. Property and civil rights in the Province.

14°. The administration of justice in the Province, including the constitution, maintenance, and organization of Provincial Courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those Courts.

15°. The imposition of punishment by fine, penalty, or imprisonment, for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in such section.

16°. Generally all matters of a merely local or private nature in the Province.

On the subject of education, the Act provides that, while the Legislature of a Province may exclusively make laws on education, nothing therein shall prejudicially affect any of the denominational schools (*i. e.* separate schools for the religious minorities) in existence before July, 1867, when the Act came into force.

An appeal lies to the Governor General in Council from an Act of any Provincial authority affecting any legal right or privilege that the Protestant or Catholic minority enjoyed at the Union.

In case the Provincial authority refuses to act for the due protection of the rights of the minority, in accordance with the provisions of the Constitution, then the Parliament of Canada may provide a remedy for the due execution of the law.

There are certain rights which the Dominion and Local Governments may exercise in common, among which are agriculture and immigration, respecting which the Gene-

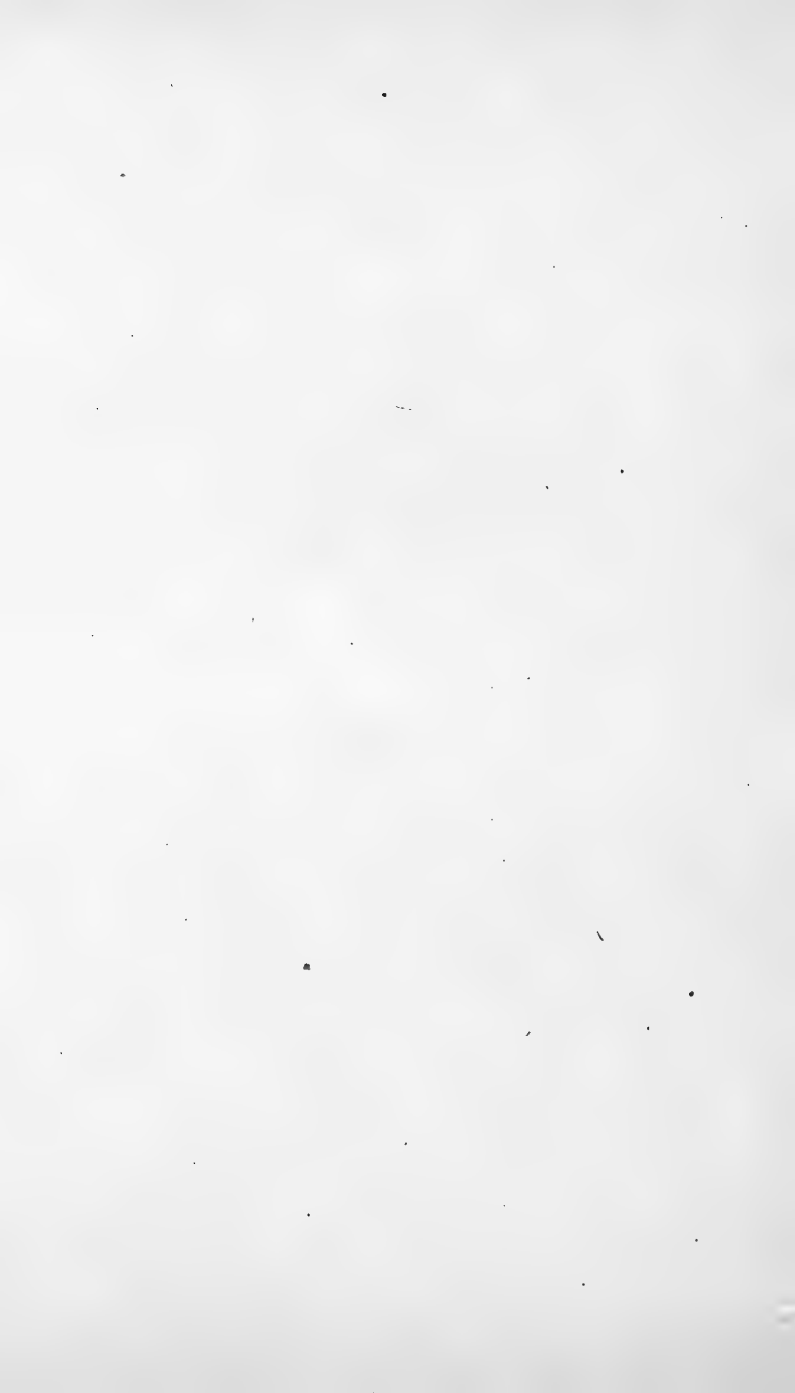
ral Parliament may make laws for any or all of the Provinces, and each Legislature may do the same for the Province over which it has jurisdiction, provided no Provincial Act is repugnant to any Dominion Act.

Either the English or French language may be used in the Debates in Parliament, in the Legislature of Quebec, and in the Legislative Assembly of the North West Territories ; and both these languages must be used in the respective Records and Journals of the Houses of Parliament and of the Legislature of Quebec, and in the publication of the laws of Canada, Quebec, and the North West Territories.

It may be added that either language may be used in pleadings or process in the Courts of Canada and Quebec.

The seat of Government of Canada is fixed at Ottawa, until the Queen otherwise directs.





CHAPTER III

EXECUTIVE POWER

The executive Government and authority in Canada is vested in the Queen, in whom also is vested the command of the militia and of all naval and military forces of or in Canada.

Her Majesty is represented by a Governor General, appointed by the Queen in Council, but paid by Canada, whose term of office usually lasts five years.

The Governor General's salary is fixed at £10,000 sterling and forms the third charge on the consolidated revenue of the Country.

The Governor General is bound by the terms of his commission and his instructions, and can only exercise such authority as is expressly entrusted to him.

He governs under the advice of a Council or Ministry, known as the Privy Council for Canada, which is responsible to Parliament.

The Privy Councillors, appointed for life, keep their title, whether they be in office or not, those in office composing the Ministry.

The Governor General, as the active Head of the Executive, summons, prorogues, and dissolves Parliament, and assents to or reserves Bills in the name of Her Majesty ; but in the discharge of these and other executive duties, he acts entirely by and with the advice of his Council. Even in matters of Imperial interest affecting Canada, he consults with his Council and submits their views to the authorities in England.

The Royal prerogative of mercy in capital cases, formerly exercised on the Governor General's own judgment and responsibility, is now administered as in England, pursuant to the advice of the Ministry.

The Governor General may be authorized by the Queen to appoint a Deputy or Deputies, to whom he may delegate such

of his functions and powers as he may deem expedient to assign to such officer or officers.

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The number of the members of the Privy Council in office varies from thirteen to fifteen.

Actually they number fourteen, of whom twelve are Heads of Departments, whose functions are regulated by Statute. There are :

- 1°. The President of the Privy Council.
- 2°. The Minister of Public Works.
- 3°. The Minister of Railways and Canals.
- 4°. The Minister of Trade and Commerce.
- 5°. The Minister of Militia and Defence.
- 6°. The Minister of Agriculture.
- 7°. The Secretary of State.
- 8°. The Minister of Justice and Attorney General.
- 9°. The Minister of Finance.
- 10°. The Minister of Marine and Fisheries.

11°. The Postmaster General.

12°. The Minister of the Interior.

The two other members of the Privy Council are ministers without portfolio.

Three new offices have been recently created. They are those of :

1°. The Solicitor General.

2°. The Comptroller of Customs.

3°. The Comptroller of Inland Revenue.

The first assists the Minister of Justice, both in his Department and in Parliament, and the other two are the Parliamentary Heads of the Departments of Customs and of Inland Revenue. They are in the Ministry, but are not members of the Cabinet nor of the Privy Council.

Ministers are paid an annual salary of \$7.000, with an additional \$1.000 to the Prime Minister. Ministers without portfolio receive no salary. The Solicitor General and Comptrollers draw each a salary of \$5.000.

As the members of the Ministry occupy office only while they retain the confidence of the Lower Chamber or House of Commons, the majority necessarily sit in that body, though there is always a certain representation — three at the present time — in the Upper House or Senate.

An Administration, when defeated on an appeal to the Country, usually retires at once, without waiting for the assembling of Parliament.

Since Confederation, there have been really but three Dominion Administrations, viz. :

1°. The Government of Sir John A. Macdonald ; formed 1st July, 1867, and resigned 5th November, 1873.

2°. The Government of the Honourable Alexander Mackenzie ; formed 7th November, 1873, and resigned 16th October, 1878.

3°. The second Government of Sir John A. Macdonald ; formed 17th October, 1878, which virtually remains in office.

After his death, Sir John A. Macdonald was succeeded by Sir John J. C. Abbott,

to whom soon succeeded Sir John S. D. Thompson, the actual Prime Minister, who has been recently made a member of the Privy Council for the United Kingdom, which confers on him the title of "Right Honourable".



CHAPTER IV

LEGISLATIVE POWER

Following the British model as far as circumstances permit, the Parliament of Canada consists of the Queen, an Upper House called the Senate, and a Lower House called the House of Commons.

The privileges and immunities of the two Houses are defined by the Parliament of Canada, but must not exceed those enjoyed by the Imperial House of Commons in 1867.

The sittings are annual, but may be oftener.



Senators are appointed by the Governor General under the Great Seal, upon the recommendation of his Council.

They hold office, under certain prescribed conditions, for life, and must be of the full age of thirty years and have real and personal property worth \$4.000 over and above all liabilities.

The Senate is at present composed of 81 members, apportioned territorially as follows : Quebec, 24 ; Ontario, 24 ; Nova Scotia, 10 ; New Brunswick, 10 ; Manitoba, 4 ; British Columbia, 3 ; Prince Edward Island, 4, and the North West Territories, 2.

The Senators from Quebec must have either their property qualification or their residence in their own divisions ; but while it is required that, in the case of other Provinces, Senators must reside within the Provincial limits, there is no legal necessity that they should live in a particular county or district, or have their property qualification therein.

All revenue or money Bills can alone originate in the Commons, and the action of the Senate concerning such measures is confined by usage to their adoption or

rejection; but such rejection can only be justified by extraordinary circumstances.

Divorce Bills originate in the Senate, but this is a matter of convenience, to which the Commons agree without objection, since, under the Constitution, the Upper House has no special privileges in this respect.

During the Session of Parliament, the Senate holds a daily sitting, commencing at 3 p. m., Saturdays excepted, unless otherwise ordered. The proceedings commence with prayers taken from the English liturgy and read by the Chaplain, a paid official.

The Senate is presided over by a Speaker, who must be one of their body and who is appointed by the Governor in Council, by Commission under the Great Seal.

Fifteen members, including the Speaker, constitute a quorum.

Questions are decided by a majority of voices, the Speaker having always a vote; and when the voices are equal, the decision is deemed to be in the negative.

Every Senator and member of the House of Commons and of the several Local Legis-

latures must take the oath of allegiance before taking his seat.

No Senator can hold a seat in the House of Commons.



The House of Commons is elected by the people for a term of five years.

It enjoys both legislative and executive functions, since, through a committee of its own, it governs the Country.

At the present time, the House of Commons contains 215 members, or about one member for every 22,480 of the population of the Dominion.

The representation is re-arranged, after every decennial census, by Act of Parliament, in accordance with the Confederation Act. The Province of Quebec has the fixed number of 65 members, which forms the ratio of representation on which a decennial re-adjustment is based. Each of the other Provinces is assigned such a number of representatives as will have the

same proportion to the number of its population as the number of 65 bears to the population of Quebec, when ascertained by a census. Supposing that every member from the Province of Quebec should represent 30,000 people of the population of the Province, then the other Provinces would have one member per 30,000 people, and so on. Under these conditions, the representation for Quebec remains unalterable, whilst that of the other Provinces may increase or decrease, according to population.

The Province of Quebec has 65 members. Ontario, with over two millions of people, is now represented by 92 members ; Nova Scotia has 21 ; New Brunswick, 16 ; Prince Edward Island, 6 ; British Columbia, 6 ; Manitoba, 5, and the North West Territories, 4.

But under the re-distribution made in 1892, it will be as follows : Quebec, 65 ; Ontario, 92 ; Nova Scotia, 20 ; New Brunswick, 14 ; Prince Edward Island, 5 ; British Columbia, 6 ; Manitoba, 7, and the North

West Territories, 4 : in all, 213 instead of 215.

Previous to 1885, the franchise for the several Provincial Legislatures was the franchise for the House of Commons ; but in that year, an *Electoral Franchise Act* was passed for the whole Dominion.

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The franchise adopted, though somewhat complicated in its details, is so broad as practically to be on the border of universal suffrage. Every intelligent, industrious man, who is a British subject by birth or naturalization, and not a convict or a lunatic, or otherwise disqualified by law, is in a position to qualify himself to vote for a member of the Commons.

The qualifications of electors are more fully set forth in the accompanying table.

Title of voters.	Occupation of premises, or residence in the electoral district.	Value.
<i>Real Property Franchise.</i>		
1°. Owner. (a) In his own right. (b) In right of wife. (c) His wife owner.	Ownership prior to and at the date of revision of the voters' lists.	Cities, \$300; towns, \$200; other places, \$150.
2°. Occupant. (a) In his own right. (b) In right of wife. (c) His wife occupant.		
3°. Farmer's son. (a) Father owner. (b) Mother owner.	Both occupation and residence for one year next before the date of his being placed upon the list of voters or the date of the application for the placing of his name on the list of voters.	Farm or other real property, if equally divided among the father and sons or — if mother the owner—among the sons, sufficient, according to the above values, to give each a vote.
4°. Owner's son. (a) Father owner. (b) Mother owner.		
5°. Tenant.		
6°. Tenant-farmer's son. (a) Father tenant. (b) Mother tenant.		\$2 monthly, or \$6 quarterly, or \$12 half-yearly, or \$20 yearly.
7°. Fisherman (owner).	Prior to and at the date of the revision of the voters' lists.	Fisherman, \$150, land, boats, fishing tackle, and Indian, \$150 of improvements.
8°. Indian.		
<i>Income Franchise.</i>		
9°. Income.	Prior to and at the date of the revision of the voters' lists, and one year's residence in Canada.	\$300 a year.
10°. Annuitant.	Residence for one year prior to the revision of the voters' lists.	\$100 a year.

The persons specially disqualified from voting by the *Franchise Act* are :

1°. The Judges of the various Courts.

2°. Revising and returning officers and election clerks.

3°. Counsel, agents, attornies, and clerks employed by the candidate, either before or during the election, and who have received any sum of money, fee, office, place, or employment from any candidate.

4°. Indians, outside of the four original Provinces of the Confederation and Prince Edward Island.

Voting in elections, except in the North West Territories, is by ballot.

No property qualification is demanded from a member of the Commons, nor is he limited to a residence in the district for which he is elected •

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The laws enacted for the preservation of the independence of Parliament and the prevention of corrupt practices at elections

are, in principle and details, practically those in operation in the Mother Country.

Members of the House, when called to the Government a Heads of Departments, vacate their seats and must be re-elected, though an exchange of office can take place between Ministers after their election, under the conditions laid down in the law.

All officers of the Public Service and contractors with the Government are forbidden to sit in Parliament, an exception being made, as in England, of officers in the military service.

Since 1874, the House has given up its jurisdiction over the trial of controverted elections, which previously had been considered by Committees. The Courts in the several Provinces are now the tribunals for the trial of all such contested elections.

The laws for the prevention of bribery and corruption are strict, and members are frequently unseated for trivial breaches of the law, committed by their agents through ignorance or carelessness.

The election expenses of candidates must be published by their legal agents after election. The whole intent of the law is to make election as economical as possible and prevent all kinds of corruption.

A candidate may be disqualified from sitting in the Commons, or of voting at elections, or holding any office in the gift of the Crown for seven years, when he is proved personally guilty of bribery.

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The classes of subjects respecting which the Parliament of Canada may exclusively make laws are set forth in chapter II, and therefore need not be again enumerated.

The fullest discussion is allowed on all questions, and the Houses have never been compelled by obstruction, as in England, to resort to "closure" of debate.

The Standing Committees of the Commons are nine in number, and include :

1°. The Committee of Privileges and Elections : 41 members.

2°. The Committee of Expiring Laws: 29 members.

3°. The Committee of Railways, Canals, and Telegraphs : 166 members.

4°. The Committee of Private Bills : 74 members.

5°. The Committee of Permanent Orders : 46 members.

6°. The Committee of Printing : 23 members.

7°. The Committee of Public Accounts : 60 members.

8°. The Committee of Banking and Commerce : 118 members.

9°. The Committee of Agriculture and Colonization : 102 members.

The Standing Committees are chosen at each session by a Committee of Selection. The Government is allowed a majority, generally in proportion to its majority in the House, and both sides of the House are fully represented.

The membership of these bodies varies in number from 23 to over 166 members.

We give above the number adopted at the last session (1893).

The publication of the Debates of the House of Commons is under the control of a Special Committee of the House.

The House holds daily sittings during the Session of Parliament, commencing at 3 p. m., (Saturdays excepted, unless otherwise ordered,) and, as in the Senate, the proceedings commence with prayer, read, alternately in English and French, by the Speaker.

The order of business, laid daily on the desk of each member, is divided into Government Orders, Public Bills and Orders, and Private Bills, besides Questions put to the Government, and Notices of Motion, all of which are taken upon particular days, in accordance with the rules of the House. Certain days are set apart for Government business, and others for private members ; but near the close of the Session, the Government control every day in the week.

The Private Bills, which always outnumber the Public and Government measures,

are presented and passed in conformity under special rules, which do not apply to the other classes.

The Crown, with the advice of the Privy Council, recommends all appropriations of public money.

All measures of taxation can only be introduced by Ministers of the Crown and must be shown to be necessary for the public service.

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The Speaker of the Commons, who, like the Speaker of the Senate, receives a salary of \$4.000 *per annum*, is elected by the majority at the opening of a new Parliament, and holds office until Parliament is dissolved or he resigns.

He presides at all sittings of the House and, in his absence at any time, is replaced by a Deputy Speaker, or Chairman of Committees, who is elected from the members of the House, in like manner as the Speaker, at the commencement of a new Parliament.

The Deputy Speaker is paid an annual salary of \$2,000.

The Speaker and four members of the Privy Council sitting in the Commons compose a Commission, annually appointed, for regulating the Internal Economy of the House, the Speaker being the Chairman.

The direction and control of the Library of Parliament, and of its officers, are vested in the two Speakers, assisted, during the Session, by a Joint Committee appointed by the two Houses.

Members of the Commons and the Senate receive a sessional indemnity at the rate of \$10 *per diem* if the Session is less than thirty days, and \$1,000 a Session if it extends beyond that time, together with an allowance of ten cents per mile for travelling expenses.

Twenty members, including the Speaker, constitute a quorum.

Questions arising in the Commons are decided by a majority of voices other than that of the Speaker; and when the voices

are equal, but not otherwise, the Speaker has a vote.

At the last general election for the House of Commons, held on the 5th March, 1891, the total number of electors on the voters' lists amounted to 1,225,060.





CHAPTER V

LOCAL LEGISLATURES

The Constitutions of the four Provinces — Quebec, Ontario, Nova Scotia, and New Brunswick — which composed the Dominion in 1867, when the Confederation Act was passed, are the same in principle and details, except in the case of Ontario and New Brunswick, where there is only one Chamber, a Legislative Assembly.

The same may be said of the other Provinces that have been admitted into the Union since the date mentioned. All the provisions of the Confederation Act that applied to the original Provinces were, as far as possible, made applicable to them, just as if they had formed part of the Union in 1867.

Manitoba, established on the 12th May, 1870, was given a Constitution similar to the other Provinces.

It was expressly provided in the terms of union with British Columbia that Responsible Government should be introduced into that Province, and that the Constitution of the Legislature should be amended by making its members elective. Immediately upon the union with Canada, these reforms were carried out and the Province was placed on the same footing as all the other Provinces.

All the Local or Provincial Constitutions are now, therefore, practically on an equality, so far as the executive, legislative, and all essential powers of self-government are concerned.

All of them have the authority, under the fundamental law, to amend their Constitutions, except as regards the office of Lieutenant Governor. British Columbia, Manitoba, and Prince Edward Island have accordingly availed themselves of their constitutional privileges, and there is

now in those Provinces, as in Ontario and New Brunswick, only one House, elected by the people.

In all the Provinces, at the present time, there is a very complete system of local self-government, administered under the authority of the Confederation Act, and by means of the following machinery.

§ I. — LIEUTENANT GOVERNOR.

The Lieutenant Governor is appointed by the Governor General in Council.

He holds office during pleasure and is not removable within five years from his appointment, except for cause assigned, which, under the Constitution, must be communicated to Parliament.

He is therefore an officer of the Dominion, as well as the Head of the Local Executive, and possesses within his constitutional sphere all the authority of a Governor or Lieutenant Governor in his Province before Confederation.

He acts in accordance with the rules and

usages governing the relations between the Governor General and his Ministry. He appoints his Executive Council, and is guided by their advice as long as they retain the confidence of the Legislature.

The salaries of Lieutenant Governors, which are paid by the Dominion Treasury, vary from \$7,000, given in the smaller Provinces, to \$10,000, paid in larger and more important Provinces, like Ontario and Quebec.

§ II. — EXECUTIVE COUNCIL.

The Executive or advisory Council is responsible to the Legislature.

It comprises from eight members in the larger Provinces to three in the smaller ones.

Their official titles also vary in the different Provinces, but generally there is in every Executive Council an Attorney General, a Provincial Secretary, and a Commissioner of Crown Lands.

In the Ontario Government, there is a Minister of Education, that branch of the local public service being considered of exceptional importance.

In view of keeping the direction of education entirely free from political control, the Province of Quebec has established a special Department, independent of the Ministry. This Department, known as the Council of Public Instruction, comprises two separate committees : one Roman Catholic, and the other Protestant. Each of these has the entire control of its share of school taxes, as well as of the money voted by the Legislature for educational purposes. The Head of the Council is the Superintendent of Public Instruction, who is appointed by the Lieutenant Governor ; he presides over the sittings of the Council, and has to report annually to the Legislature.

All the members of the Executive Council who hold Departmental and salaried

offices vacate their seats in the elective House of the Legislature and must be re-elected, in like manner as members of the Dominion Ministry.

The principle of ministerial responsibility to the Lieutenant Governor and to the Legislature is observed in the fullest sense.

§ III.—LEGISLATURE.

1°. *Provinces.*

The Legislature consists of an elective House in all cases, with the addition of an Upper Chamber, appointed by the Crown, in two Provinces : Quebec and Nova Scotia.

The Legislatures have a duration of four years (in Quebec five), unless sooner dissolved by the Lieutenant Governor.

They are governed by the constitutional principles which obtain in the General Government at Ottawa.

The Lieutenant Governor opens and prorogues the Legislature, with the usual formality of a speech.

A Speaker is elected by the majority in each Assembly, and is appointed by the Crown in the Upper Chamber.

The rules and usages which govern their proceedings do not differ in any material respect from the procedure in the Dominion Parliament.

The rules respecting Private Bill legislation are also equally restrictive. The same provisions of law apply to the Speakership of the Assemblies as obtain respecting the Speakership of the House of Commons.

The Legislatures of Ontario and Quebec, like the Dominion Parliament, must sit once every twelve months; apart from the existing usage that Supply has to be voted every twelve months, the *British North America Act* demands an annual session.

The number of members to the Legislative Assemblies is of 73 in Quebec, 92 in Ontario, 38 in Nova Scotia, 39 in New Brunswick, 20 in Prince Edward Island, 40 in Manitoba, 32 in British Columbia, and 26 in the North West Territories.

The members of the Assemblies need

only be British subjects, and of the age of twenty-one years.

Members of the Legislative Council, where they exist, have a property qualification.

The franchise in Ontario is manhood suffrage, qualified only by residence and citizenship.

The conditions of the suffrage are hardly less liberal in nearly all the Provinces, and vary little from each other.

The Province of Quebec imposes in a few particulars the most restrictions, and shows an indisposition to adopt universal suffrage.

Members are paid an indemnity which varies with the Provinces : \$800 in Quebec ; \$600 in Ontario ; \$500 in Nova Scotia ; \$300 in New Brunswick ; \$172 in Prince Edward Island ; \$550 in Manitoba, and \$600 in British Columbia. They are paid also, in the five first Provinces, a small mileage rate, to cover travelling expenses.

The laws providing for the independence of the Legislatures and for the prevention

of bribery and corruption are fully as strict as those in force for Dominion elections.

In all cases the Courts are the tribunals for the trial of controverted elections.

Dual representation is illegal, except in the case of the Quebec Legislative Council, where a member may also hold a seat in the Dominion Senate.

Touching the question of disallowance, it may be briefly stated that the Confederation Act gives the Lieutenant Governor, as well as the Governor General, the power to “reserve” and also to “veto” a Bill when it comes before him.

The classes of subjects respecting which Local Legislatures may make laws are set forth in chapter II.



As regards the revenues of the Provinces, they are largely derived from certain annual subsidies receivable from the General Government. The Dominion, at the Union, assumed the debts of the several Provinces,

agreeing at the same time to pay them an annual subsidy equal to 80 cents per head of the population of the first four Provinces, as ascertained by the census of 1861, except in the case of New Brunswick and Nova Scotia, where it was arranged that the subsidy should increase each decennial census, until the population in each case reached 400,000.

Besides this subsidy, there is given to each Province an annual allowance of interest on the amount of the debt allowed, where the Province has not reached the limit of the authorized debt.

Under these arrangements, there has been paid to the Provinces in subsidies, for the fiscal year ending the 30th June, 1892, a total sum of \$3,935,913,56.

The Provinces also retain possession of the lands belonging to them before entering the Union.

Manitoba, having no public lands at the time of its creation as a Province, has since received a gift of swamp lands from the General Government.

2°. North West Territories.

The great North West Territories, owing to their somewhat remote situation and anomalous condition, occupy an exceptional position in the Confederation.

Previous to 1888, the Territories were governed by a Lieutenant Governor, and Council, partly nominated by the Governor General in Council, and partly elected by the people.

In that year, legislation was had granting the Territories a Legislative Assembly of 22 members, but without Responsible Government. In 1891, the number of members was increased to 26.

The Lieutenant Governor is appointed by Dominion authority for four years.

He has, however, the right of choosing from the Assembly four members to act as an Advisory Council in matters of finance.

The Assembly has a duration of three years, and is called together annually, at such time as the Lieutenant Governor appoints. It elects its own Speaker, and is

governed by rules and usages similar to those that prevail in the Assemblies of the Provinces.

Each member receives \$500, besides an allowance for travelling expenses.

The Dominion Treasury provides nearly all the funds necessary for carrying on the government and for other necessary expenses.

The elections are by open voting.

The electors must be *bonâ fide* male residents and householders of adult age, who are not aliens or unenfranchised Indians, and who have resided within the district where they live for twelve months before the election.

The Civil and Criminal laws of England are in force in the Territories, so far as they can be made applicable, and the Lieutenant Governor and Assembly have such powers to make ordinances for the government of the North West Territories as the Governor General in Council confers upon them ; but their powers cannot at any time exceed those conferred by the Confede-

ration Act upon the Provincial Legislatures.

There is a Supreme Court of the North West Territories, composed of five Judges, appointed, like all other members of the Judiciary, by the Dominion Government, and removable upon an address of Parliament.

As previously indicated, the Territories are represented in the Senate by two Senators, and in the Commons by four members, who vote and have all the other privileges of those of the Provinces.

It may be added that there are in Manitoba and the Territories some 45,000 Indians, who are the wards of the Canadian Government.

The accompanying table shows the area, population, and number of electors, members of Parliament as re-distributed in 1892, and Senators for each Province of the Dominion and for the North West Territories.

The number of electors is taken from the

different Provincial voters' lists, revised for the general election held on the 5th March, 1891. The area and population can be found, with every detail, in the first volume of the *Census of Canada*, 1891, published, at Ottawa, by order of the Minister of Agriculture.

PROVINCES.	Official census, 1891.		Voters.	Members of Parliament.	Senators.
	Area in square miles	Popula- tion.			
Quebec	227,500	1,488,535	325,754	65	24
Ontario.....	219,650	2,114,321	596,715	92	24
Nova Scotia	20,550	450,396	103,039	20	10
New-Brunswick.....	28,100	321,263	82,500	14	10
Prince Edward Island.....	2,000	109,078	21,877	5	4
Manitoba	64,066	152,506	55,935	7	4
British Columbia	382,300	98,173	23,246	6	3
North West Territories	2,371,481	98,967	16,044	4	2
Totals.....	3,315,647	4,833,239	1,225,060	213	81

§ IV. — PROVINCIAL JUDICIARY.

The Provincial Judiciary is treated of separately elsewhere in the chapter devoted exclusively to the Judiciary.

§ V. — CIVIL SERVICE.

The officers of the Civil Service, appointed by the Provincial Governments, hold office, as a rule, during pleasure, and are not removable for political reasons.

§ VI. — MUNICIPAL SYSTEM.

The organization of the Municipal system comprises in Ontario, where the system is to be found in its most complete and symmetrical form :

1°. Townships, or rural districts, of eight or ten square miles, with a population of from 3.000 to 6.000, administered by a Reeve and four Councillors.

2°. Villages, with a population of 750 and upwards, governed like the townships.

3°. Towns, with a population of over 2.000, governed by a Mayor, and three Councillors for each ward if there are less than five wards, and two Councillors if more than five.

The Reeves, Deputy Reeves, Mayors,

and Councillors are all elected annually by the rate-payers.

Above these stands the County Municipality, consisting of the Reeves and Deputy Reeves of the townships, villages, and towns within the county. One of these, who presides, is called the "Warden" of the county.

Alongside the county stands the city, with a population of over 15,000, governed by a Municipal body of a Mayor, and three Aldermen for every ward, with powers and functions akin to those of counties and towns combined.

The Councils have power to levy rates, create debts, and promote agriculture, trade, manufactures, and railways, and powers relating to drainage, roads, paupers, cemeteries, public schools, free libraries, markets, fire companies, preservation of the peace, and for all other objects falling within the legitimate scope of local Municipal requirements.

The exemptions from taxation comprise all Government and public property, places

of worship and lands connected therewith, and a great number of buildings occupied by scientific, educational, and charitable institutions. The official incomes of the Judiciary and of all Dominion officials in Ontario are also exempt from taxation.

The Municipal system in the Province of Quebec is as developed as that in Ontario, with a similar mode of election. There is the same gradation of parish, village, town, county, and city Municipalities, enjoying the same privileges and possessing similar powers. Municipal franchises are those the tax-payers of the Province of Quebec are most jealous of.





CHAPTER VI

JUDICIARY

By the provisions of the Act of Confederation, the Governor General appoints the Judges of the Superior, District, and County Courts, except those of the Courts of Probate in Nova Scotia and New Brunswick.

Their salaries, allowances, and pensions are fixed and provided by the Dominion Parliament.

The Judges of the Courts of Quebec must be selected from the Bar of that Province.

There is a similar provision for the selection of the Judges in Ontario, Nova Scotia, and New Brunswick, until the laws relative to property and civil rights, and the proce-

ture of the Courts in those Provinces are made uniform.

The administration of justice in each Province, including the constitution, maintenance, and organization of Provincial Courts, both of civil and criminal jurisdiction, including procedure in civil matters in those Courts, is left to the Local Legislature and Government.

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* *

The highest Court in the Country is the Supreme Court of Canada.

It was constituted in 1875, in pursuance of the 101st section of the Confederation Act, which provides “for the constitution, “maintenance, and organization of a general “Court of Appeal for Canada”.

This Court has an appellate civil and criminal jurisdiction in and throughout Canada. It has also an appellate jurisdiction in cases of controverted Dominion elections, and may examine and report upon any Private Bill or petition for the same.

The Governor in Council may refer any matter to the Supreme Court for an opinion which he deems advisable in the public interest.

It has also jurisdiction in cases of controversies between the Dominion and the Provinces, and between Provinces on condition that the Legislature of such Provinces pass an Act agreeing to such jurisdiction.

Either House of Parliament may also refer to this Court any Private Bill for its report thereon.

This Court is composed of a Chief Justice, and five *puînés* Judges, two of whom, at least, must be appointed from the Bench or Bar of the Province of Quebec, and all of whom must reside at or within five miles of the City of Ottawa, where the Court holds its sittings three times a year, viz. : in February, May, and October.

From the decisions of the Supreme Court, an appeal lies, except in criminal cases, to the Judicial Committee of the Privy Council, in England.

There is also an Exchequer Court for Canada.

It is presided over by a Judge, taken from any of the Provinces, who must reside at Ottawa or within five miles thereof.

This Court has exclusive original jurisdiction in all cases in which demand is made, or relief sought, in any matter which might, in England, be the subject of a suit or action against the Crown, and in all cases in which the land, goods, or money of the subject are in the possession of the Crown, or in which the claim arises out of a contract entered into by or on behalf of the Crown. It also possesses exclusive original jurisdiction in the matter of various other claims against the Crown.

It has concurrent original jurisdiction in Canada in all cases, relating to the revenue, in which it is sought to enforce any law of Canada, including actions, suits, and proceedings to enforce penalties, and proceedings in all cases in which it is sought, at the instance of Attorney General of Canada, to impeach or annul any patent of invention,

or any patent, lease, or other instrument respecting lands, in all cases in which demand is made, or relief sought, against any officer of the Crown, for anything done or omitted to be done in the performance of his duty as such officer; and in all other actions and suits of a civil nature, at Common Law or Equity, in which the Crown is plaintiff or petitioner.

The Court may sit at any time and at any place in Canada.

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As regards the Provincial Courts, it may be said that, so far as circumstances have permitted, the changes in the organization and procedure of the English Courts have been followed in the English speaking Provinces.

This is especially true of Ontario, where the *Judicature Act* is modelled upon that of England.

It provides for a Supreme Court of Judicature, consisting of two permanent di-

visions, called, respectively, the High Court of Justice for Ontario and Court of Appeal for Ontario.

The first division is again divided into three parts : Queen's Bench, Chancery, and Common Pleas.

In Ontario, as in the other English Provinces, the recent practice of England has been followed, and though the title of Chancellor, or Judge in Equity, still exists in some Courts, there is a fusion of Law and Equity.

There is in the Province of Quebec :
1°. A Court of Appeal or Queen's Bench, having jurisdiction in the appeals from the decisions of the Superior Court and of the Court of Review, and also in the appeals in criminal matters. 2°. A Superior Court, having jurisdiction in all civil suits in first instance. 3°. A Court of Review, which constitutes an intermediate Court of Appeal between the Superior Court and the Court of Queen's Bench in Appeal.

The law provides every legitimate facility for appeals from every inferior Court

in a Province, and causes may be taken either immediately to the Privy Council in England, or, as generally happens, to the Supreme Court of Canada, at Ottawa, previously to going before the Court of the last resort for the Empire at large.

The principles of the Criminal Law of England prevail in all the Provinces.

All Statutory provisions were consolidated in 1892, with certain amendments, in the Criminal Code, which came into force on the 1st July, 1893.

The Roman, or French Civil Law exists in Quebec; but in the other Provinces, the Common Law of England forms the basis of their jurisprudence in matters of personal and real rights.



CONTENTS

	PAGES
PUBLISHER'S NOTICE	5
CHAPTER I. History	9
CHAPTER II. Constitution.....	15
CHAPTER III. Executive Power	25
CHAPTER IV. Legislative Power.....	31
CHAPTER V. Local Legislatures ...	47
CHAPTER VI. Judiciary	65
